

PRISONER'S CIVIL RIGHTS COMPLAINT (Rev. 05/2015)

IN THE UNITED STATES DISTRICT COURT
FOR THE Southern DISTRICT OF TEXAS
Corpus Christi DIVISION

United States Courts
Southern District of Texas
FILED

DEC 19 2019

David J. Bradley, Clerk of Court

JAMES E. WILSON #1842956
Plaintiff's Name and ID Number

WILLIAM G. MCINNELL UNIT
Place of Confinement

CASE NO. _____
(Clerk will assign the number)

v.

ANDREW H. NINO
3001 S. EMILY DR. BEEVILLE, TX. 78102
Defendant's Name and Address

BENJAMIN P. BRAD
3001 S. EMILY DR. BEEVILLE, TX. 78102
Defendant's Name and Address

JOHN R. DELAPP JR.
3001 S. EMILY DR. BEEVILLE, TX. 78102
Defendant's Name and Address
(DO NOT USE "ET AL.")

INSTRUCTIONS - READ CAREFULLY

NOTICE:

Your complaint is subject to dismissal unless it conforms to these instructions and this form.

1. To start an action you must file an original and one copy of your complaint with the court. You should keep a copy of the complaint for your own records.
2. Your complaint must be legibly handwritten, in ink, or typewritten. You, the plaintiff, must sign and declare under penalty of perjury that the facts are correct. If you need additional space, **DO NOT USE THE REVERSE SIDE OR BACK SIDE OF ANY PAGE.** ATTACH AN ADDITIONAL BLANK PAGE AND WRITE ON IT.
3. You must file a separate complaint for each claim you have unless the various claims are all related to the same incident or issue or are all against the same defendant, Rule 18, Federal Rules of Civil Procedure. Make a short and plain statement of your claim, Rule 8, Federal Rules of Civil Procedure.
4. When these forms are completed, mail the original and one copy to the clerk of the United States district court for the appropriate district of Texas in the division where one or more named defendants are located, or where the incident giving rise to your claim for relief occurred. If you are confined in the Texas Department of Criminal Justice, Correctional Institutions Division (TDCJ-CID), the list labeled as "VENUE LIST" is posted in your unit law library. It is a list of the Texas prison units indicating the appropriate district court, the division and an address list of the divisional clerks.

FILING FEE AND *IN FORMA PAUPERIS* (IFP)

1. In order for your complaint to be filed, it must be accompanied by the statutory filing fee of \$350.00 plus an administrative fee of \$50.00 for a total fee of \$400.00.
2. If you do not have the necessary funds to pay the fee in full at this time, you may request permission to proceed *in forma pauperis*. In this event you must complete the application to proceed *in forma pauperis*, setting forth information to establish your inability to prepay the fees and costs or give security therefor. You must also include a current six-month history of your inmate trust account. If you are an inmate in TDCJ-CID, you can acquire the application to proceed *in forma pauperis* and the certificate of inmate trust account, also known as *in forma pauperis* data sheet, from the law library at your prison unit.
3. The Prison Litigation Reform Act of 1995 (PLRA) provides "... if a prisoner brings a civil action or files an appeal *in forma pauperis*, the prisoner shall be required to pay the full amount of a filing fee." See 28 U.S.C. § 1915. Thus, the court is required to assess and, when funds exist, collect, the entire filing fee or an initial partial filing fee and monthly installments until the entire amount of the filing fee has been paid by the prisoner. If you submit the application to proceed *in forma pauperis*, the court will apply 28 U.S.C. § 1915 and, if appropriate, assess and collect the entire filing fee or an initial partial filing fee, then monthly installments from your inmate trust account, until the entire \$350.00 statutory filing fee has been paid. (The \$50.00 administrative fee does not apply to cases proceeding *in forma pauperis*.)
4. If you intend to seek *in forma pauperis* status, do not send your complaint without an application to proceed *in forma pauperis* and the certificate of inmate trust account. Complete all essential paperwork before submitting it to the court.

CHANGE OF ADDRESS

It is your responsibility to inform the court of any change of address and its effective date. Such notice should be marked "NOTICE TO THE COURT OF CHANGE OF ADDRESS" and shall not include any motion for any other relief. Failure to file a NOTICE TO THE COURT OF CHANGE OF ADDRESS may result in the dismissal of your complaint pursuant to Rule 41(b), Federal Rules of Civil Procedure.

I. PREVIOUS LAWSUITS:

A. Have you filed *any* other lawsuit in state or federal court relating to your imprisonment? ☒ YES ☐ NO

B. If your answer to "A" is "yes," describe each lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, giving the same information.)

1. Approximate date of filing lawsuit: AROUND OR ABOUT 1999
2. Parties to previous lawsuit:
 Plaintiff(s) JAMES E. WILSON
 Defendant(s) CAPTAIN DO BERRY
3. Court: (If federal, name the district; if state, name the county.) CAN NOT RECALL
4. Cause number: CAN NOT RECALL
5. Name of judge to whom case was assigned: CAN NOT RECALL
6. Disposition: (Was the case dismissed, appealed, still pending?) LOST DISPOSITIVE MOTION
7. Approximate date of disposition: 1999 CAN NOT RECALL ACTUAL DATE

II. PLACE OF PRESENT CONFINEMENT: WILLIAM G. MCCONNELL UNIT

III. EXHAUSTION OF GRIEVANCE PROCEDURES:

Have you exhausted all steps of the institutional grievance procedure?

☒ YES ☐ NO

Attach a copy of your final step of the grievance procedure with the response supplied by the institution.

IV. PARTIES TO THIS SUIT:

A. Name and address of plaintiff: JAMES EMMETT WILSON
3001 S. EMILY DR.
BEEVILLE, TX. 78102

B. Full name of each defendant, his official position, his place of employment, and his full mailing address.

Defendant #1: ANDREW H. NIND - SERGEANT - WILLIAM G. MCCONNELL
UNIT - 3001 S. EMILY DR. BEEVILLE, TX. 78102

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

NIND RETALIATED AGAINST ME FOR MY GRIEVANCES & COMPLAINTS

Defendant #2: BENJAMIN P. BRAKO - SERGEANT - WILLIAM G. MCCONNELL
UNIT - 3001 S. EMILY DR. BEEVILLE, TX. 78102

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

BRAKO RETALIATED AGAINST ME FOR MY GRIEVANCES & COMPLAINTS

Defendant #3: JOHN R. DELAPP JR. - MAJOR - WILLIAM G. MCCONNELL
UNIT - 3001 S. EMILY DR. BEEVILLE, TX. 78102

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

DELAPP RETALIATED AGAINST ME FOR MY GRIEVANCES & COMPLAINTS

Defendant #4: DANIEL P. FERNANDEZ - ASSISTANT WARDEN - WILLIAM G.
MCCONNELL UNIT - 3001 S. EMILY DR. BEEVILLE, TX. 78102

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

FERNANDEZ FAILED TO ACT OR INTERVENE IN MALICIOUS & SADISTIC
BEHAVIORS

Defendant #5: _____

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

V. STATEMENT OF CLAIM:

State here in a short and plain statement the facts of your case, that is, what happened, where did it happen, when did it happen, and who was involved. Describe how each defendant is involved. You need not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach extra pages if necessary, but remember the complaint must be stated briefly and concisely. IF YOU VIOLATE THIS RULE, THE COURT MAY STRIKE YOUR COMPLAINT.

I AM A HOMOSEXUAL WHO WAS ASSIGNED TO PROTECTIVE CUSTODY. I WAS RAPED AND REPORTED IT. SERGEANT NIND IGNORED PROTOCOL LOCKED ME UP, DESTROYED EVIDENCE AND HAD ME CHARGED WITH A DISCIPLINARY CASE. I FILED GRIEVANCES AND OTHER COMPLAINTS CONCERNING THE RAPE AND NIND'S BEHAVIOR. IN RETALIATION NIND HAD ME CHARGED WITH A MORE SERIOUS DISCIPLINARY INFRACTION. SERGEANT BRAD AND MAJOR DELAPP INSTRUCTED ME TO STOP FILING COMPLAINTS ABOUT THE RAPE AND NIND, OR THEY WOULD TAKE MY PROTECTIVE CUSTODY CLASS AND LEAVE ME WITH NO PROTECTION. I FILED ANOTHER COMPLAINT SUBSEQUENTLY BRAD AND DELAPP REMOVED MY PROTECTIVE CUSTODY CLASS LEAVING ME WITH NO PROTECTION...

VI. RELIEF:

State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.

ISSUE INJUNCTIVE RELIEF PROHIBITING DEFENDANTS FROM FURTHER ENDANGERING MY SAFETY AND THAT EACH DEFENDANT PAY DAMAGES OF \$25,000.00 EACH...

VII. GENERAL BACKGROUND INFORMATION:

A. State, in complete form, all names you have ever used or been known by including any and all aliases.

JAMES EMMITT WILSON JR.

B. List all TDCJ-CID identification numbers you have ever been assigned and all other state or federal prison or FBI numbers ever assigned to you.

588595 - 1842956

VIII. SANCTIONS:

A. Have you been sanctioned by any court as a result of any lawsuit you have filed? YES ☒ NO

B. If your answer is "yes," give the following information for every lawsuit in which sanctions were imposed. (If more than one, use another piece of paper and answer the same questions.)

1. Court that imposed sanctions (if federal, give the district and division): N/A

2. Case number: N/A

3. Approximate date sanctions were imposed: N/A

4. Have the sanctions been lifted or otherwise satisfied? N/A YES NO

- C. Has any court ever warned or notified you that sanctions could be imposed? _____ YES ☒ NO
- D. If your answer is "yes," give the following information for every lawsuit in which a warning was issued. (If more than one, use another piece of paper and answer the same questions.)
1. Court that issued warning (if federal, give the district and division): N/A
 2. Case number: N/A
 3. Approximate date warning was issued: N/A

Executed on: 12-16-2019
DATE

JAMES EMMETT WILSON
James Emmett Wilson
(Signature of Plaintiff)

PLAINTIFF'S DECLARATIONS

1. I declare under penalty of perjury all facts presented in this complaint and attachments thereto are true and correct.
2. I understand, if I am released or transferred, it is my responsibility to keep the court informed of my current mailing address and failure to do so may result in the dismissal of this lawsuit.
3. I understand I must exhaust all available administrative remedies prior to filing this lawsuit.
4. I understand I am prohibited from bringing an *in forma pauperis* lawsuit if I have brought three or more civil actions or appeals (from a judgment in a civil action) in a court of the United States while incarcerated or detained in any facility, which lawsuits were dismissed on the ground they were frivolous, malicious, or failed to state a claim upon which relief may be granted, unless I am under imminent danger of serious physical injury.
5. I understand even if I am allowed to proceed without prepayment of costs, I am responsible for the entire filing fee and costs assessed by the court, which shall be deducted in accordance with the law from my inmate trust account by my custodian until the filing fee is paid.

Signed this 16th day of DECEMBER, 20 19.
(Day) (month) (year)

JAMES EMMETT WILSON
James Emmett Wilson
(Signature of Plaintiff)

WARNING: Plaintiff is advised any false or deliberately misleading information provided in response to the above questions may result in the imposition of sanctions. The sanctions the court may impose include, but are not limited to, monetary sanctions and the dismissal of this action with prejudice.